

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE**

RICHARD DASCHBACH, individually  
and on behalf of all others similarly  
situated,

*Plaintiff,*

v.

ROCKET MORTGAGE, LLC, a Michigan  
limited liability company,

*Defendant.*

Case No. 1:22-cv-00346-JL

**DECLARATION OF TAYLOR T. SMITH IN  
SUPPORT OF PLAINTIFF'S OPPOSITION  
TO DEFENDANT'S MOTION TO COMPEL  
ARBITRATION**

I, Taylor T. Smith, declare as follows:

1. I am an attorney with the law firm Woodrow & Peluso, LLC and counsel of record for Plaintiff Richard Daschbach (“Plaintiff” or “Daschbach”).
2. On September 2, 2022, Plaintiff filed the instant action alleging wide-scale violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227 (“TCPA” or “Act”) and New Hampshire state telemarketing laws (dkt. 1), which was later amended on November 4, 2022 (dkt. 10).
3. After the lawsuit was filed, counsel for Defendant Rocket Mortgage, LLC (“Defendant” or “Rocket Mortgage”) sent Plaintiff’s counsel a letter dated October 17, 2022. In the letter, Rocket Mortgage claimed that Daschbach visited a different website, LowerMyBills.com and completed a different form that resulted in the calls.
4. During conferrals, Rocket Mortgage’s counsel clarified that it no longer claimed that Daschbach visited LowerMyBills.com. Instead, on October 24, 2022, Rocket Mortgage disclosed that it now asserted that Daschbach visited refinance.enhancedrefinow.com, a website operated by LMB Mortgage Services, Inc. d/b/a LowerMyBills.com (“LMB”).
5. Attached as Exhibit 1 to this Declaration are true and accurate copies of the disclosures analyzed in *Berman v. Freedom Fin. Network, LLC*, 30 F.4th 849 (9th Cir. 2022).

6. Attached as Exhibit 2 to this Declaration are true and accurate copies of the disclosures analyzed in *Cullinane v. Uber Techs., Inc.*, 893 F.3d 53, 57-58 (1st Cir. 2018).

7. Attached as Exhibit 3 to this Declaration are true and accurate copies of the disclosures analyzed in *Shirley v. Rocket Mortg.*, No. 2:21-CV-13007, 2022 WL 2541123, ECF No. 9-5 pgs. 12-13, 16-17 (E.D. Mich. July 7, 2022).

8. Attached as Exhibit 4 to this Declaration is a true and accurate copy of the disclosure analyzed in *Rodriguez v. Experian Servs. Corp.*, No. 2:15-cv-03553-R-MRW ECF No. 24-2 (C.D. Cal. Oct. 5, 2015).

9. Attached as Exhibit 5 to this Declaration is a true and accurate copy of the disclosure analyzed in *Hill v. ActiveProspect, Inc.*, No. 5:20-cv-01351-JGB-KK, ECF No. 43-7 pg. 16 (C.D. Cal. July 16, 2021).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on December 20, 2022, in Denver, Colorado.

/s/ Taylor T. Smith

Taylor T. Smith (*admitted pro hac vice*)  
tsmith@woodrowpeluso.com  
Woodrow & Peluso, LLC  
3900 East Mexico Avenue, Suite 300  
Denver, Colorado 80210  
Telephone: (720) 907-7628  
Facsimile: (303) 927-0809

*Counsel for Plaintiff and the Class*

# Exhibit 1

## Appendix A

**Welcome back, stephanie!**

Confirm your ZIP Code Below:  
93930

I understand and agree to the [Terms & Conditions](#) which includes  
marketing emails and text messages.

I AGREE to receive daily emails from [Samples&Savings](#) and [SweepstakesAlerts](#)

**This is correct, Continue! »**

**Getting Free Stuff Has Never Been Easier!**

**JOIN US!**  
Sign up and join our community of millions of users just like you on the power for samples, coupons, and freebies!

**EXPLORE!**  
We will not only match you with products you are most interested in, but you'll also be able to browse all samples we have available at the time.

**SAVE BIG!**  
Let us provide you with freebies, trials, and samples that you'd typically be spending hard-earned money on.

**Getting Free Stuff Has Never Been Easier!**

**JOIN US!**  
Sign up and join our community of millions of users just like you on the power for samples, coupons, and freebies!

**EXPLORE!**  
We will not only match you with products you are most interested in, but you'll also be able to browse all samples we have available at the time.

**SAVE BIG!**  
Let us provide you with freebies, trials, and samples that you'd typically be spending hard-earned money on.

There is no purchase necessary to access our list of links for samples, but you do need to provide personal information, respond to survey questions and agree to be contacted by our marketing partners to qualify for a sample collection. By visiting the website and participating, you agree to the Terms & Conditions, which includes the use of cookies and the collection of personal information. You may withdraw your consent at any time by opting out via the Preferences section of the website or by email, or if you separately consent, by telephone or text message. Message and Data rates may apply. Reply "STOP" to cancel. For customer service, reply "HELP". Sign up to receive deals via text from Samples and Savings. You may request up to a maximum of 10 offers on selected days of the week, with no more than 4 text messages in any 24 hour period. We may change or discontinue our marketing partners with prior notice which may be increased at their pleasure or notice. We may substitute other products.

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Privacy Policy - Terms & Conditions  
American Prize Center LLC  
120 Court Street, 3rd Floor  
White Plains, NY 10601

## Appendix B

**Shipping Information Required**



Item #5160300095421

**Complete your shipping information to continue towards your reward**

---

First Name \_\_\_\_\_

Last Name \_\_\_\_\_

Street Address \_\_\_\_\_

ZIP Code \_\_\_\_\_

Telephone \_\_\_\_\_

**Date of Birth:**

**Select Gender:**

Male

Female

I understand and agree to the [Terms & Conditions](#), which includes mandatory arbitration and [Dispute Policy](#).

**Continue »**

 **Includes Express Shipping**

**NATIONAL CONSUMER CENTER**

**Program Requirements – Updated March 23, 2017.** To earn an incentive, you must: (1) be a U.S. resident 18 years or older; (2) provide accurate and complete registration information; (3) complete the survey questions and/or claim verification process; (4) complete all offers within 20 days from when you complete your first offer; (5) complete an offer that requires a purchase and (6) provide a valid credit card to receive a gift card incentive. Incentives are limited to one incentive of any kind per household/persons living in the same household. Incentives are not redeemable for cash; provided you must wait 24 calendar months after you claim a tier 2 incentive before you can claim another tier 2 incentive. The [Representative Offer](#) [Contract](#) describes the terms of several offers, including a description of the offer, the initial commitment, grace period, cancellation period, and how you can cancel or substitute a gift card of greater or equivalent value for any incentive. Incentives are not redeemable for cash. You must provide a valid credit card to receive a gift card incentive. You must complete the survey questions or comply with claim verification process will result in disqualification. SOLVING A PUZZLE PROVIDING YOUR PERSONAL INFORMATION, TAKING A SURVEY, ANSWERING QUESTIONS OR VIEWING OPTIONAL OFFERS WITHOUT COMPLETING THE NUMBER OF REQUIRED OFFERS WILL NOT COUNT AS AN INCENTIVE. DO NOT PURCHASE FOR AN INCENTIVE. We verify your registration information and if it's inaccurate, the page with the Gift Card Offer will be displayed with a message indicating if that happens, you won't be eligible to earn an incentive.

By participating, you agree to the [Terms & Conditions](#), which includes mandatory arbitration and [Privacy Policy](#), which includes your consent to receive information and communications from our Marketing Partners for which we may be compensated.

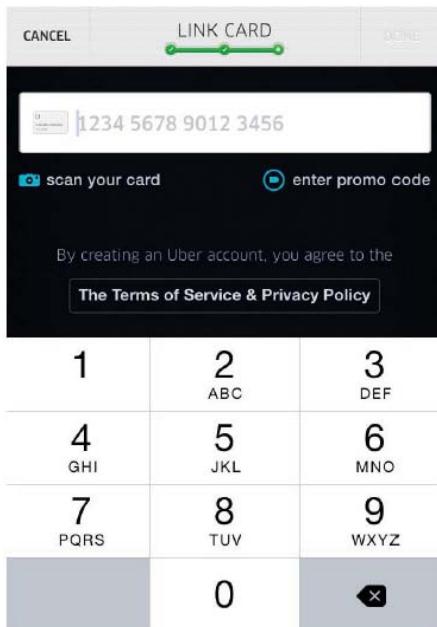
RewardsZone USA administrators this website and does not claim to represent or own any of the trademarks, service marks or rights associated with the products or services of any of the incentive partners. All products and services are the property of their respective owners who do not own, endorse or promote RewardsZone or this promotion.

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# Exhibit 2

### 1. "Link Card"

When confronted with the third screen, Núñez and Schaul were presented with the "Link Card" screen. This is what it looked like:<sup>3</sup>



As depicted in the screenshot above, the screen contained a thick gray bar at the top of the screen with the title "Link Card." To the left of the title was a "CANCEL" button and to the right was an inoperative and barely visible "DONE" button.

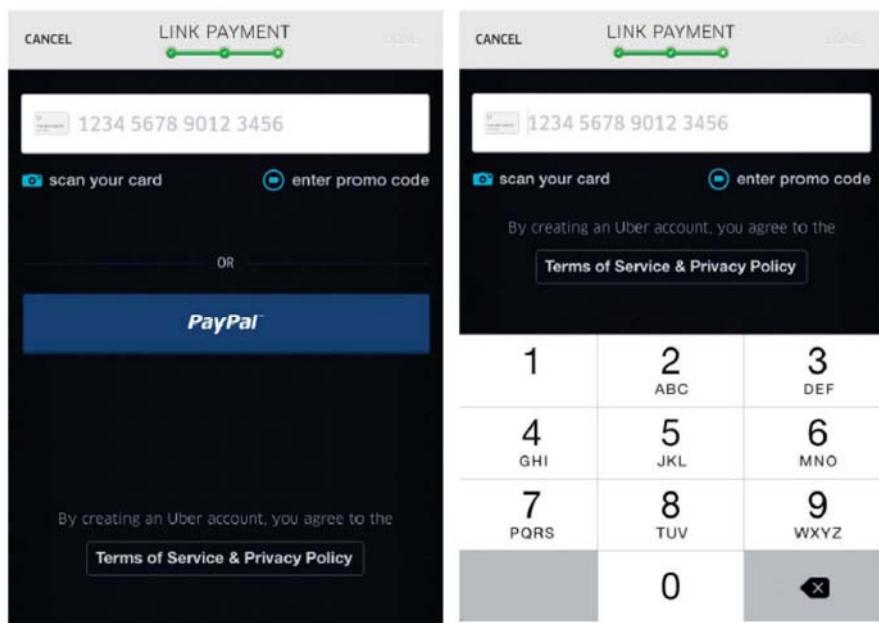
---

<sup>3</sup> The parties do not dispute that the screenshots attached to Uber's motion to compel arbitration accurately depict the content of the Uber App screens presented to the Plaintiffs. The screenshots, however, are larger than the actual size of the average smartphone's display. Because the Plaintiffs contend that the iPhones they used to register with Uber had 3.5-inch displays, we reproduce the screenshots found in the record as they would appear in a smartphone's display that is approximately 3.5 inches, measured diagonally. Uber does not concede that the Plaintiffs' iPhone displays were this size.

Below this text was the phrase "Terms of Service & Privacy Policy" in bold white text enclosed in a gray rectangle. According to Uber, this rectangular box indicated that this phrase was a "clickable button."

## 2. "Link Payment"

Plaintiffs Cullinane and McDonagh confronted a third screen that looked like this:



The "Link Payment" screen was very similar to the "Link Card" screen, except that it provided for an additional payment option that altered the screen's initial presentation. Instead of a blank text field for credit card information and the aforementioned number pad, the "Link Payment" screen displayed the blank text field and a large blue button with the PayPal logo.<sup>5</sup>

---

<sup>5</sup> PayPal is "an internet service to pay for transactions online."

# Exhibit 3

## Next, let's learn about your property.

Based on your current loan information, there may be lenders available! Learning about your property and some financial history helps us fine-tune these results.

90%

"They keep up on interest rates, have **saved me over \$1,000 a month** on my payments AND cut 4 years off the time of my home loan! Amazing!"



Karen V. (Verified Customer)

### How old are you?

Select One

### Employment status

Employed

### Purpose of Taking Cash Out

Select One

### Any bankruptcy in the past 3 years?

Ok to estimate

Yes  No

### Do you currently have an FHA loan?

Federal Housing Administration

Yes  No  I Don't Know

### Do you currently pay for PMI?

Private Mortgage Insurance

Yes  No  I Don't Know

### Number of late mortgage payments in the past 12 months?

None

LowerMyBills.com  
We respect your privacy

Street

State / City

CA - Los Angeles

Email Address

We respect your privacy

Calculate

By clicking the button above, you agree to be contacted by LowerMyBills, et al the address entered above for promotional emails and consent, electronically via E-sign, to the LMB Lending [Terms of Use](#), [Privacy Policy](#), and [Consent to Doing Business Electronically](#).

Featured Provider

**Quicken Loans**

Excellent



Based on 19,017 reviews



Showing our 5 star reviews

★★★★★

Painless

They made the process easy and painless!

SHANNON WILKES

4 hours ago

★★★★★

Rocket mortgage is absolut...

Rocket mortgage is absolutely the best. I have refinanced a few times

JOSEPH THULL



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Rocket Mortgage: [E-Mail Policy](#) | [Security and Privacy](#) | [Disclosures and Licenses](#) | [Terms of Use](#) | [Communication Opt-Out](#)

Data is collected by LowerMyBills on behalf of Rocket Mortgage. LowerMyBills is not acting as a lender or broker. The information provided by you to LowerMyBills is not an application for a mortgage loan, nor is it used to pre-qualify you with any lender. If you are contacted by a lender or broker advertising within our network, your quoted rate may be higher depending on your property location, credit score, loan-to-value ratio, debt-to-income ratio, and/or other factors. LowerMyBills does not offer its matching services in all states. This loan may not be available for all credit types, and not all service providers in the LowerMyBills network offer this or other products with interest-only options.

LowerMyBills: [Terms of Use](#) | [Our Privacy](#) | [State Privacy Notices](#) | [Licenses & Disclosures](#) | [Ad Targeting Policy](#)



## Calculate

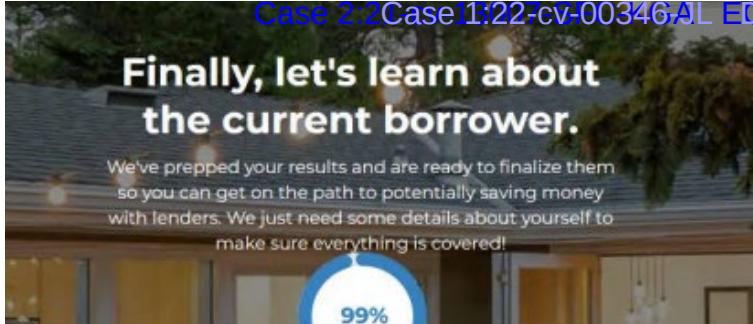
By clicking the button above, you agree to be contacted by LowerMyBills, at the address entered above for promotional emails and consent, electronically via E-sign, to the LMB Lending [Terms of Use](#), [Privacy Policy](#), and Consent to Doing Business Electronically.

*Featured Provider*

**Quicken Loans®**



**LowerMyBills.com**  
A Core Digital Media Company



Viewed as one scrolling page on mobile – screenshot split for readability

"They keep up on interest rates, have **saved me over \$1,000 a month** on my payments AND cut 4 years off the time of my home loan! Amazing!"

Karen V. (Verified Customer)

#### My Current Occupation

Select One

#### Active or previous U.S. military service?

Yes  No

#### Are you or your spouse currently in a VA loan?

Yes  No

#### First Name

We respect your privacy.

#### Last Name

#### Primary Residence

We respect your privacy.

#### Street

City

State

ZIP Code

Phone Number   
(  )  -

Secondary Phone Number   
Optional  
(  )  -

Enter your phone number above to receive automated and/or pre-recorded calls only from us and/or the providers that we matched to you.

Calculate your FREE results

By clicking the button above you express your understanding and consent electronically via E-sign to the following:

1. To be matched with, and contacted by, up to 5 participants in the [LMR Provider Network](#) about mortgage and financial services products and content (not required as a condition to purchase a good, service for us and them to contact you for marketing purposes (including through the use of automatic telephone dialing system, artificial or pre-recorded voice) via telephone or text at the phone number provided above (including 505 and 606), and email, even if you are on a corporate, state or national Do Not Call Registry. You may revoke your consent at any time. You agree that LMR (from Digital Media and [DocuMatters](#)) can share your personal data and contact information with the providers in the LMR Provider Network, your employer and other affiliated (not members) may use your personal data and contact information for marketing and analytics and to make your experience easier. As an alternative, you may contact us by email at [customerservice@lowermybills.com](mailto:customerservice@lowermybills.com)

2. To use the LMR [Lending Terms of Use](#), [Privacy Policy](#), and [Content in Doing Business Electronically](#).

3. And that as a condition of such consent, you are providing express Written Instructions (as defined under applicable law(s)) to LMR to utilize your information in order to reference your consumer credit report for the purpose of validating your self-reported information. Matched providers will contact you directly to discuss their financial services and products and to gather additional information in order to best service your request for information and products.

4. Additionally, if selected above you consent to be matched to up to an additional 1 providers about [solar services](#), [home improvement services](#), [home insurance services](#), and [motor services](#) (not required as a condition to purchase a good, service) for us and them to contact you for marketing purposes (including through the use of an automatic telephone dialing system, artificial or pre-recorded voice) via telephone at the phone number provided above (including 505 and 606), and email, even if you are on a corporate, state or national Do Not Call Registry. You may revoke your consent at any time. As an alternative, you may contact us by email at [customerservice@lowermybills.com](mailto:customerservice@lowermybills.com)

## Calculate your FREE results ➤

By clicking the button above, you express your understanding and consent electronically via E-sign to the following:

1. To be matched with, and contacted by, up to 5 participants in the [LMB Provider Network](#) about mortgage and financial services products, and consent (not required as a condition to purchase a good / service) for us and them to contact you for marketing purposes (including through the use of an automatic telephone dialing system, artificial or prerecorded means) via telephone or text at the phone number provided above (including SMS and MMS), and email, even if you are on a corporate, state or national Do Not Call Registry. You may revoke your consent at any time. You agree that LMB, Core Digital Media, and [Rocket Mortgage](#) can share your personal data and contact information with third parties, such as mortgage partners, partner companies, and other affiliates, and that these parties may use your personal data and contact information for marketing and analytics, and to make your experience easier. As an alternative, you may contact us by email at [customercare@coredigital.com](mailto:customercare@coredigital.com).

2. To the LMB Lending [Terms of Use](#), [Privacy Policy](#), and Consent to Doing Business Electronically.

3. And that as a condition of such consent, you are providing express Written Instructions (as defined under applicable law(s)) to LMB to utilize your information in order to reference your consumer credit report for the purpose of validating your self-reported information. Matched Providers will contact you directly to discuss their financial services and products and to gather additional information, in order to best service your request for information and products.

4. Additionally, if selected above, you consent to be matched to up to an additional 3 providers about [solar services](#), [home improvement services](#), [home insurance services](#), and [realtor services](#), and consent (not required as a condition to purchase a good / service) for us and them to contact you for marketing purposes (including through the use of an automatic telephone dialing system, artificial or prerecorded means) via telephone at the phone number provided above (including SMS and MMS), and email, even if you are on a corporate, state or national Do Not Call Registry. You may revoke your consent at any time. As an alternative, you may contact us by email at [customercare@coredigital.com](mailto:customercare@coredigital.com).

### Featured Provider

# Quicken Loans®



**LowerMyBills.com**  
A Core Digital Media Company

# Exhibit 4

## You Are 90 Seconds Away From Better Results!

1 2 3

Total Debt Amount	\$20,000 - \$30,000			
Your Title	Select One			
Your Age	Select One			
First Name	<input type="text"/>			
Last Name	<input type="text"/>			
Email Address	<input type="text"/>			
Phone Numbers	Home	(	310	) <input type="text"/> - <input type="text"/>
	Work/Cell	<input type="text"/>	<input type="text"/>	<input type="text"/>

AS SEEN ON:



Los Angeles Times



By clicking the button above you agree to be matched with up to 4 professional financial agencies and for them to contact you even if your telephone number is on a corporate, state, or the National Do Not Call Registry, and you agree to our [Terms of Use](#) and [Privacy Policy](#).

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(UNKNOWN) (Q-1) (T-8048) (P-8028) (PG-42040) (S-1)

## You Are 90 Seconds Away From Better Results!



**Total Debt Amount**

**Your Title**

**Your Age**

**First Name**

**Last Name**

**Email Address**

**Phone Numbers**

Home	( <input type="text" value="310"/> ) <input type="text"/> - <input type="text"/>
Work/Cell	<input type="text"/> <input type="text"/> <input type="text"/>

AS SEEN ON:



Los Angeles Times



Recommend <585

**Click to See Your FREE Results!**

By clicking the button above you agree to be matched with up to 4 professional financial agencies, and for them to contact you (including through automated means, e.g. dialing and text messaging) via telephone, mobile device (including SMS and MMS) and/or email, even if your telephone number or email address is on a corporate, state, or the National Do Not Call Registry, and you agree to our [Terms of Use](#) and [Privacy Policy](#). Such providers may convey information on a variety of debt related products and services, including but not limited to debt settlement or consolidation, debt counseling, or bankruptcy, depending on the service information inquiries selected by the consumer.

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(UNKNOWN) (Q-1) (T-8048) (P-8028) (PG-42040) (S-1)

# Exhibit 5

Enter your info so we can personalize your results.

First Name\*

Enter First Name

Last Name\*

Enter Last Name

Phone\*

Enter Phone Number

Street Address\*

Enter Street Address

Washington, DC 20202

Change

See my results! ▶

By clicking the button above, you express your understanding and consent, electronically via E-sign, to the following:

1. To be matched with, and contacted by, up to 5 participants in the **LMB Provider Network** about mortgage and financial services products, and consent (not required as a condition to purchase a good/service) for us and them to contact you through automated or prerecorded means via telephone at the phone number provided above, on mobile devices (including SMS and MMS), and email, even if you are on a corporate, state or national Do Not Call Registry. As an alternative, you may contact us by email at [888HomeCare@comcast.net](mailto:888HomeCare@comcast.net).
2. To the LMB [Lending Terms of Use](#), [Privacy Policy](#), and [Consent to Doing Business Electronically](#).
3. And that as a condition of such consent, you are providing consent within instructions (as applicable (Rev.0)) to LMB to utilize your information in order to reference your consumer credit report for the purpose of validating your self-responded information. Matched Providers will contact you directly to discuss these financial services and products, and to gather additional information, in order to best service your request for information and products.
4. Additionally, if selected above, you consent to be matched to up to 3 providers about [solar services](#), [home improvement services](#), and [home insurance services](#), and consent (not required as a condition to purchase a good/service) for us and them to contact you, including through automated or prerecorded means (via telephone at the phone number provided above, on mobile devices (including SMS and MMS), and email, even if you are on a corporate, state or national Do Not Call Registry. As an alternative, you may contact us by email at [888HomeCare@comcast.net](mailto:888HomeCare@comcast.net)).

\*Original story from KSAT regarding [Homeowners being unaware of mortgage benefits](#). A lifetime value based on a \$250,000 mortgage with an average rate reduction of .3% (\$60 annual savings + \$15 annual savings until转售 of equity)

**FAQ about VA Home Loan Benefits**

**See What's New**

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